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SUBJECT: FREE AT LAST? IVANOVO UZBEKS WIN AT ECHR

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¶1. (U) Summary: Since their June 2005 arrest in connection with violent unrest in Andijan, 13 ethnic Uzbeks have been in limbo, caught between the threat of refoulement to Uzbekistan and an offer of refugee status in Sweden. In a decision announced December 15, the European Court of Human Rights (ECHR) cited the risk of ill treatment in Uzbekistan in ruling against Russia, which had sought to extradite the 13 to stand trial in their homeland. The ECHR judgment awarded 15,000 euros to each in little more than symbolic recognition of more than three years of confinement, ostracism, and penury in the Russian provincial city of Ivanovo. Whether Russia will comply with the Court's judgment remains an open question. End Summary.

¶2. (U) Refcoord visited Ivanovo, a city of 400,000 some 300 kilometers northeast of Moscow, December 16-17 to promote NGO referrals to the U.S. Refugee Admissions Program. Refcoord's host, lawyer Svetlana Martynova, a participant in the March 2008 International Visitor Leadership Program "Strengthening Legal Protection and Efficiency in Migration Policy," arranged a meeting with three ethnic Uzbek refugees. These were among the applicants in the case of Ismoilov and Others v. Russia that originated before the ECHR in 2006 to prevent the men's refoulement.

Ivanovo Uzbeks Fight Refoulement

¶3. (U) The individuals, including Ilhomjon Ismoilov, who came to be known as the "Ivanovo Uzbeks" arrived in Russia at various dates between 2000 and the beginning of 2005. After the unrest in Andijan in May 2005, they were arrested in Russia at the request of Uzbek authorities, who suspected them of financing insurgents. Although the applicants denied any involvement in the Andijan events, and an inquiry conducted by Russian authorities seemed to corroborate their statements, Russia commenced extradition proceedings against them. The "Ismoilov" applicants claimed that their extradition to Uzbekistan would expose them to danger of ill treatment. They also lodged applications for asylum, reiterating their fears of torture and persecution for political motives. They supported their submissions with reports prepared by UN institutions and international NGOs describing the ill treatment of detainees in Uzbekistan. The Russian authorities rejected their applications for refugee status and ordered their extradition to Uzbekistan.

¶4. (U) The ECHR ultimately found that the Ivanovo Uzbeks had fled persecution on account of their religious beliefs and successful businesses. Some of them had earlier experienced ill-treatment at the hands of the Uzbek authorities, and others had seen their relatives or business partners arrested and charged with participation in illegal extremist organizations. In its decision on the applicants' appeal to the ECHR, the Court took note of UNHCR's grant to them of mandate refugee status. The April 2008 judgment concludes:

"The Court is well aware of the immense difficulties faced by States in modern times in protecting their communities from terrorist

violence. However, even in these circumstances, the Convention prohibits in absolute terms torture or inhuman or degrading treatment or punishment, irrespective of the victim's conduct. . . . In these circumstances, the activities of the individual in question, however undesirable or dangerous, cannot be a material consideration."

On December 19 the applicants learned that this judgment in their favor had become final upon the Court's rejection four days earlier of the Russian Federation's request for referral to the Grand Chamber.

Lives on Hold

15. (U) The Ivanovo Uzbeks spent nearly two years in detention following their initial arrest, a "deprivation of liberty. . . not circumscribed by adequate safeguards against arbitrariness," according to the ECHR. They won release in March 2007 but continued to reside in Ivanovo, as Russia refused to grant them exit permission to move to Sweden, which based on UNHCR referrals had offered them refugee status. Four of them were joined by their families, but the others could not afford to move their relatives to Russia. Together the 13 settled in to a hardscrabble existence, surviving on meager UN assistance and odd black market jobs while their case worked its way through the Council of Europe's human rights machinery.

16. (U) In the 1990's and early 2000's the men had run businesses that sold fabric, towels, work clothes and furniture. (Note: Historically, Ivanovo was the capital of Russia's textile industry, importing cotton from Uzbekistan; however, its economy has gone into steep decline, succumbing to competition from Asia since the break-up of the Soviet Union. End Note.) The notoriety of their arrest and imprisonment, along with government seizure of their

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assets, effectively ended their careers as entrepreneurs. Occasionally they could pick up work as laborers at construction sites, but for the most part they survived on rental subsidies and the dollar a day for food that UNHCR could afford to grant them. It was difficult to find apartments they could afford and landlords who would accept them, particularly as their faces were familiar to many in the city from television news stories about "terrorists."

One Country's Terrorist, Another's Refugee

17. (U) Refcoord visited one of the men, 47-year-old Mahmud Rustamhodjaev, at his home in a rundown apartment block on the outskirts of Ivanovo. Rustamhodjaev moved to Ivanovo from Andijan in 2001. He used to return to Uzbekistan to visit his family, most recently in March 2005. He is married with three daughters - the youngest born while he was incarcerated - and a son born after his release. After his release from Russian prison, his wife and children came to join him. The family rents a spare but pleasant and well-heated two-bedroom apartment. The fifth-floor walk-up costs 12,000 rubles (about U.S. \$480) a month, of which UNHCR covers 7,000.

18. (U) Life for Rustamhodjaev's family is lived in a narrow frame, constricted by both poverty and uncertainty about the future. His wife rarely leaves the apartment because she does not speak Russian. The temporary registration she received when she first arrived in March 2007 was only for three months, and in order to renew it she would need to leave Russia and return, something the family cannot afford. Without valid documents, she is vulnerable on the street to arrest and deportation. Mahmud, fluent in Russian, works illegally as a night watchman and occasional truck driver, and he does the family's shopping.

19. (U) The couple's nine-year-old daughter is going to school in Russia for the first time this year. Earlier the school would not accept her because she could not speak Russian. Rustamhodjaev had to pay a tutor 150 rubles (about U.S. \$6) an hour for the girl's first year in Russia in order to bring her to a level where the

school would accept her. Fortunately the tutor also helped the girl to keep up with her academic subjects, so she started school at grade level. To pay for the tutoring and all the other expenses not covered by his meager UNHCR stipend, Rustamhodjaev borrowed money from his mother in Uzbekistan and brother and sister living in Russia. He is 60,000 rubles (about U.S. \$2,400) in debt, money he hopes to pay back if he ever receives the 15,000 euros that the ECHR says Russia must pay him.

¶10. (U) Restitution hopefully will come soon. The neighbors have been saying they do not like the noise made by Rustamhodjaev's children, and he may need to find new shelter. Neighbors' nuisance complaints are sometimes racism in disguise, but Mahmud says he would rather live even with Russian xenophobia than face return to Uzbekistan. And while there were only about 20 Uzbeks in Ivanovo when he first immigrated, now there are several thousand, as well as an ethnic community association called Zemlyachestvo Uzbekov. Mainly, Rustamhodjaev said, he wants to live peacefully and work legally, with an end to all the litigation and uncertainty.

No Closure as Yet

¶11. (U) The ECHR's December decision concluded the Ivanovo Uzbeks' litigation, but uncertainty remains. Irina Sokolova, counsel for the 13, is not predicting whether the Russian Government will pay the ordered restitution and permit the men's departure to Sweden. She told us December 23 that she plans to meet with officials after the New Year's holiday to discuss execution of the Court's judgment.

Comment

¶12. (U) The Ivanovo Uzbeks (and their legal battle for recognition and protection) are uncommonly renowned, but their life on the margins of Russian economic and social life is typical of refugees here. Septel will report on Afghan refugees in Ivanovo.

RUBIN